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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-967, C-570-968

Aluminum Extrusions from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Intent to Rescind Minor Alterations Anti-Circumvention Inquiry

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that heat-treated extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, regardless of producer, exporter, or importer, constitute later-developed merchandise, and are circumventing the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC). The Department also preliminarily intends to rescind its minor alterations anti-circumvention.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Erin Kearney, AD/CVD Operations, Office VI, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4947 or (202) 482-0167, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

Based on a request from Aluminum Extrusions Fair Trade Committee (Petitioner),<sup>1</sup> on March 21, 2016, the Department initiated its anti-circumvention inquiry<sup>2</sup> pursuant to sections 781(c) and (d) of the Tariff Act of 1930, as amended (the Act) to determine whether extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, which are heat-treated, and are exported by China Zhongwang Holdings Ltd. and its affiliates (collectively, Zhongwang), are circumventing the AD and CVD orders on aluminum extrusions from the PRC.<sup>3</sup> We also indicated in our *Initiation Notice* that we intended to consider whether the inquiry should apply to all such imports of extruded aluminum products, regardless of producer, exporter, or importer, from the PRC. During the course of the proceeding, the Department issued a questionnaire to Zhongwang, who did not respond, and also received additional factual information and comments from Petitioner and Endura Products Inc., a domestic interested party.

### Scope of the Orders

The merchandise covered by the *Orders* are aluminum extrusions from the People's Republic of China. The merchandise subject to the orders are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS): 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30,

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<sup>1</sup> See Letter to the Secretary from Petitioner, "Aluminum Extrusions from the People's Republic of China: Resubmission of Circumvention Inquiry Request Pursuant to the Department's Request," dated December 30, 2015.

<sup>2</sup> See *Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention Inquiry*, 81 FR 15039 (March 21, 2016) (*Initiation Notice*).

<sup>3</sup> See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

Products subject to these orders may also enter under HTSUS: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. Subject merchandise may also enter under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the

scope of these *Orders* is dispositive.<sup>4</sup>

#### Merchandise Subject to the Anti-Circumvention Inquiry

The products covered by this inquiry are heat-treated extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy (inquiry merchandise), regardless of producer, exporter, or importer, from the PRC.

#### Methodology

The Department has conducted this circumvention inquiry in accordance with section 781(d) of the Act and 19 CFR 351.225(j). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, the signed Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

#### Affirmative Preliminary Determination of Circumvention

Based on our analysis, as detailed in the Preliminary Decision Memorandum, we preliminarily find that all imports from the PRC of heat-treated extruded aluminum products that

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<sup>4</sup> A full description of the scope of the *Orders* is contained in the memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled "Anti-Circumvention Inquiry Regarding the Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Preliminary Determination Decision Memorandum" (Preliminary Decision Memorandum), dated concurrently with, and adopted by, this notice.

meet the chemical specifications for 5050-grade aluminum alloy, regardless of producer, exporter, or importer, constitute later-developed merchandise that is circumventing, and should be included within, the scope of the *Orders*.<sup>5</sup> In addition, if in our final determination we affirm our preliminary determination pursuant to section 781(d) of the Act, the Department intends to rescind its minor alterations anti-circumvention inquiry pursuant to section 781(c) of the Act.

#### Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of inquiry merchandise from the PRC (regardless of producer, exporter, or importer), entered, or withdrawn from warehouse, for consumption, on or after March 21, 2016, the date of publication of the initiation of this inquiry. The Department will also instruct CBP to require a cash deposit of estimated duties at the rate applicable to the exporter, on all unliquidated entries of inquiry merchandise entered, or withdrawn from warehouse, for consumption on or after March 21, 2016.

#### Intent to Consider Certification Requirement

In light of the Department's preliminary finding of circumvention, the Department intends to consider whether to require importers of certain aluminum extrusions who claim their merchandise is not subject to the *Orders* to maintain a certification certifying that their aluminum extrusions were not produced from heat-treated 5050 grade aluminum alloy. The Department intends to invite comments on this issue.

#### Notification to the International Trade Commission

As discussed in the Preliminary Decision Memorandum, because the Department has preliminarily determined, for purposes of sections 781(d)(1) and (e) of the Act, that the inquiry

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<sup>5</sup> See section 781(d) of the Act and 19 CFR 351.225(i).

merchandise does not incorporate a significant technological advance or significant alteration of an earlier product, the Department is not notifying the ITC of its preliminary determination.

#### Public Comment

The Department may solicit new factual information in this inquiry. Additionally, should a party seek to submit new factual information, the Department intends to consider requests to accept new factual information on a case-by-case basis.

The Department will invite comments on this preliminary determination and issue a memorandum establishing a briefing schedule. Interested parties may submit case briefs and rebuttal briefs within the designated timeframe outlined in the memorandum. Rebuttals to case briefs are limited to issues raised in the case briefs. Parties who submit case or rebuttal briefs are requested to submit with the argument: (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities. Parties submitting briefs should do so using the Department's electronic filing system, ACCESS.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. A written request for a hearing must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.<sup>6</sup> Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined.

#### Final Determination

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<sup>6</sup> See 19 CFR 351.310(c).

Pursuant to section 781(f) of the Act, the final determination with respect to this anti-circumvention inquiry, including the results of the Department's analysis of any written comments, will be issued no later than January 9, 2017, unless extended.<sup>7</sup>

This preliminary affirmative anti-circumvention determination is published in accordance with section 781(d) of the Act and 19 CFR 351.225.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

November 3, 2016.

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Date

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<sup>7</sup> This date reflect the next business day after the 300 day deadline of January 8, 2017. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

## **Appendix**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Merchandise Subject to the Anti-Circumvention Inquiry
- V. Later-Developed Merchandise Anti-Circumvention Inquiry
- VI. Use of Facts Available with an Adverse Inference
- VII. Analysis
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- IX. Intent to Rescind Minor Alterations Anti-Circumvention Inquiry
- X. Intent To Consider Certification Requirement
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